

REMARKS

I. Status of Claims

Claims 1-38 are pending. Claims 1, 7, 14, 23, 37 and 38 have been amended in order to expedite prosecution. Support for these amendments is found throughout the specification, in particular, in originally filed claims 27 and 28. Claims 13, 28, 29 and 31 have been amended to improve clarity and to correct inadvertent typographical errors. As no new matter has been added by these amendments, Applicants respectfully request entry of these claims.

II. Restriction Requirement

The Examiner has required restriction between:

Group I, claims 1-13 and 23-36, drawn to a method of modulating at least one photosensitive trait in a plant comprising increasing expression of PHYTOCHROME AND FLOWERING TIME 1 (PFT1) by transforming a plant cell with an expression vector comprising a nucleic acid that encodes PFT1 protein, a transgenic plant comprising said expression vector, or a recombinant nucleic acid sequence comprising SEQ ID NO:2 or comprising a nucleic acid sequence encoding SEQ ID NO:3 or variants thereof.

Group II, claim 16, drawn to a method of modulating a photosensitive trait in a plant comprising contacting a plant cell or plant with an inhibitor of a PFT1 gene such that expression of the PFT1 gene is reduced, wherein the inhibitor comprises an expression vector expressing a protein that inhibits expression of the PFT1 gene.

Group III, claims 14-15, 17-22, drawn to a method of modulating a photosensitive trait in a plant comprising contacting a plant cell or plant with an inhibitor of a PFT1 gene such that expression of the PFT1 gene is reduced, wherein the inhibitor comprises an antisense molecule or a short interfering RNA (siRNA) configured to inhibit the production of a PFT1 gene product.

Group IV, claim 37, drawn to an isolated protein.

Group V, claim 38, drawn to a recombinant nucleic acid molecule encoding a PFT1 protein produced by isolating nuclear material from a plant and isolating from said nuclear material a recombinant nucleic acid molecule encoding a PFT1 protein.

The Office states that the inventions listed as Group I-V do not relate to a single inventive concept under PCT Rule 13.1, because, under PCT Rule 13.2, they lack the same or corresponding special technical features. In particular, the Office asserts that the method of modulating a photosensitive trait in a plant comprising altering the level of PFT1 protein in a plant is taught in the prior art in view of Halliday et al (1997, The Plant Journal 12(5): 1-79-1090). The Office alleges that Applicants have defined a PFT1 nucleic acid to include polynucleotides having alterations in the nucleic acid sequence which still encodes a polypeptide having the ability to modulate a photosensitive trait (page 12, paragraph 50) and that based on this definition the nucleic acid of Halliday et al. is interpreted to be a PFT1 nucleic acid.

To the extent the restriction applies to the amended claims, Applicants respectfully traverse the lack of unity rejection. Under 37 C.F.R. 1.475, the requirement of unity of invention can be fulfilled when there is a technical relationship among those inventions involving one or more of the same or corresponding special technical features. The expression "special technical features" shall mean those technical features that define a contribution which each of the claimed inventions, considered as a whole, makes over the prior art. In their presently amended form, the claims are either directed to a PFT1 protein, wherein the protein is encoded by a nucleotide sequence hybridizing to SEQ ID NO: 2 under stringent wash conditions or has an amino acid sequence at least 45% identical to SEQ ID NO: 3 or directed to a PFT1 gene, wherein the gene has a nucleotide sequence that hybridizes to SEQ ID NO: 2 under stringent wash conditions or encodes a protein which has an amino acid sequence at least 45% identical to SEQ ID NO: 3. Halliday fails to teach such a PFT1 gene or protein.

In view of the above, Applicants respectfully assert that the pending claims have a special technical feature in common. As such, all claims have unity of invention and Groups I-V can readily be examined together.

In order to be fully responsive, in the event the lack of unity rejection is maintained, Applicants elect Group I with traverse.

In the unlikely event that the transmittal form is separated from this document and the Patent Office determines that an extension and/or other relief is required, Applicant petitions for any required relief including extensions of time and authorize the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to Deposit Account No. **03-1952** referencing docket no. **532792000800**. However, the Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

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Respectfully submitted,

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